

Bill No. XX-11  
Concerning: Taxation -- Carryout Bag  
Tax  
Revised: [date] Draft No. [#]  
Introduced: [date]  
Expires: [18 mos. after intro]  
Enacted: [date]  
Executive: [date signed]  
Effective: [date takes effect]  
Sunset Date: [date expires]  
Ch. [#], Laws of Mont. Co. [year]

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN ACT** to:

- (1) impose an excise tax on certain carryout bags provided to customers at certain retail establishments;
- (2) require certain retail establishments to collect the carryout bag tax and remit the tax to the County;
- (3) provide for a certain fee to compensate certain retail establishments for collecting the carryout bag tax;
- (4) provide for certain exemptions from the carryout bag tax;
- (5) provide for certain imposition of an estimated carryout bag tax under certain circumstances;
- (6) provide for the imposition of interest and penalties for failure to collect and remit the carryout bag tax; and
- (7) generally amend County law to provide for an excise tax on certain bags.

By adding

Montgomery County Code  
Chapter 52, Taxation  
Article XIV Carryout Bag Tax  
Sections 52-101, 52-102, 52-103, 52-104, 52-105, 52-106, and 52-107

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

Sec. 1. Article XIV, Sections 52-101, 52-102, 52-103, 52-104, 52-105, 52-106, and 52-107 are added as follows:

**Article XIV. Carryout Bag Tax.**

**52-101. Definitions.**

In this Article, the following terms have the following meanings:

(a) **Director** means the **Director** of the Department of Finance.

(b) **Carryout bag** means a paper or plastic bag provided by a **retail establishment** to a customer at the point of sale, pickup, or delivery to carry purchases. **Carryout bag** does not include:

(1) A bag provided by a pharmacist that contains prescription drugs;

(2) Any newspaper bag or bag intended for initial use as a garbage, pet waste, or yard waste bag;

(3) A bag provided at the point of sale at a stand at a seasonal event such as a farmers market; or

(4) A paper bag that a **restaurant** provides to a customer to take prepared food or drink away from the **restaurant**.

(c) **Restaurant** means any lunchroom, cafe, or other establishment located in a permanent building for the accommodation of the public, equipped with a kitchen containing facilities and utensils for preparing and serving meals to the public, and outfitted with a public dining area. A

**restaurant** does not include any area of a supermarket, department store, or other **retail establishment** beyond the kitchen and public dining area.

(d) **Retail establishment** means any person engaged in the retail sale of goods. **Retail establishment** includes any supermarket, convenience store, shop, service station, restaurant or any other sales outlet where a customer purchases goods.

**52-102. Bag tax imposed.**

(a) A tax in the amount of 5 cents (\$0.05) is levied and imposed on each customer for each **carryout bag** that a **retail establishment** provides to the customer.

(b) Each **retail establishment** that provides a **carryout bag** to a customer must collect the amount of the tax imposed under subsection (a) when payment is made by the customer in person, through the Internet, by telephone, by facsimile, or by any other means. The **retail establishment** must hold the taxes required to be collected under this Section in trust for the County until remitted as required under Section 52-103.

(c) The **retail establishment** may retain 1 cent (\$0.01) from each 5-cent tax that the **retail establishment** collects to cover the administrative cost of collecting and remitting the tax to the County.

(d) A **retail establishment** must indicate on the customer's transaction receipt the number of **carryout bags** that the **retail establishment** provided to the customer and the total amount of tax levied under this Section.

**52-103. Remittances.**

(a) Except as provided in subsection (b), on or before the 25th day of the month, each **retail establishment** must remit the full amount of the tax collected for all **carryout bags** provided to a customer during the previous month, less the amount retained under Section 52-102 (c).

(b) The **retail establishment** is only required to remit the taxes to the **Director** when the cumulative tax collections under Section 52-102 (a) since the previous remittance, if any, exceed \$100.

(c) Each remittance must be accompanied by a report of all transactions that involve bags subject to the tax. The report must be on a form supplied by the **Director** and must contain the number of bags supplied or provided to customers, the amount of tax required by this Section to

be collected and any other information the **Director** requires to assure that the proper tax has been remitted to the County.

(d) (1) If the **retail establishment** does not file a required report by the deadline established under subsection (a), the **Director** may estimate the amount of tax due. The **Director** may base the estimate on a reasonable projection of bags supplied or provided and may consider taxes reported by other **retail establishments**.

(2) The **Director** may send a notice of the estimated tax due, including interest and penalty, to the **retail establishment's** last known address. The **retail establishment** must pay the estimated tax, including any interest and penalty assessed by the **Director**, within 10 days after the notice is sent.

(e) Each **retail establishment** must preserve for 3 years all records necessary to determine the amount of the tax due under this Section.

(f) The **Director** may inspect any records required to be kept under this Section at any reasonable time.

(g) The **Director** must deposit all of the taxes remitted under this Section into the stormwater management fund created under Section 19-35, less the cost of administering this Article.

#### **52-104. Interest and penalties.**

(a) If a **retail establishment** does not remit to the **Director** any tax collections owed under Section 52-103 when due, the **retail establishment** is liable for:

- (1) interest on the collections at the rate of one percent per month for each month or part of a month after the remittances are due; and
- (2) a penalty of 5 percent of the amount of the collections per month or part of a month after the remittances are due, not to exceed 25 percent of the collections.

(b) The **Director** must collect any interest and penalty as part of the remittance due.

**52-105. Prohibited conduct.**

A **retail establishment** must not:

- (a) Neglect or refuse to collect or remit the tax levied under this Article;
- (b) Make an incomplete, false, or fraudulent report to the **Director**;
- (c) Neglect or refuse to keep complete and accurate records; or
- (d) Refuse to allow the **Director** to inspect and audit the **retail establishment's** records.

**52-106. Regulations.**

The County Executive may adopt regulations under method (2) to implement this Article.

98 **52-107. Enforcement.**

99 Any violation of this Article is a Class A civil violation. Each violation is a  
 100 separate offense. A conviction under this Section does not relieve a **retail**  
 101 **establishment** from paying a remittance owed to the County.

102 **Sec. 2. Effective Date.**

103 This Act takes effect on January 1, 2012.

104 *Approved:*

105 \_\_\_\_\_  
 Valerie Ervin, President, County Council Date

106 *Approved:*

107 \_\_\_\_\_  
 Isiah Leggett, County Executive Date

108 *This is a correct copy of Council action.*

109 \_\_\_\_\_  
 Linda M. Lauer, Clerk of the Council Date